

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

American Electric Power System Retirement)
Savings Plan, *et al.*,)
)
Plaintiff,)
)
v.)
)
Rita Jean Dellinger, *et al.*,)
)
Defendants.)
)
v.)
)
Eric R. Dellinger and Renae Dellinger)
Pilipowskyj,)
)
Defendants/Third-Party Plaintiffs,)
)
v.)
)
American Electric Power System Life & Accident)
Insurance Plan, American Electric Power Service)
Corporation, as Plan Administrator of American)
Electric Power System Life & Accidental)
Insurance Plan and Metropolitan Property and)
Casualty Insurance Company,)
)
Third-Party Defendants.)

Case No. CIV-10-125-JHP

AGREED ORDER AND JUDGMENT

Pursuant to the Joint Motion of the parties (Doc #75), and for good cause shown, the Court enters this Agreed Order and Judgment pursuant to 28 U.S.C. §2201 and 29 U.S.C. §1132(a):

1. This Court has subject matter jurisdiction over this Interpleader action in accordance with Rule 22 of the Federal Rules of Civil Procedure and 28 U.S.C. §1331 and 29 U.S.C. §1132(e)(i). Venue is proper in this Court pursuant to 29 U.S.C. §1132(e).

2. The parties to this action include the American Electric Power System Retirement Plan, and the American Electric Power System Retirement Savings Plan (collectively the “AEP Retirement Plans”), the American Electric Power Service Corporation as Plan Administrator of the American Electric Power System Retirement Plan and the American Electric Power System Retirement Savings Plan (“AEP”), Rita Jean Dellinger, Individually and as Personal Representative of the Estate of Jacky Ray Dellinger (“Rita Dellinger”), Eric R. Dellinger (“Eric Dellinger”), Renae Dellinger Pilipowskyj (“Renae Pilipowskyj”), T.C.H. (“TCH”), M.M.H. (“MMH”), Metropolitan Life Insurance Company (“MetLife”)¹, the American Electric Power System Life and Accident Insurance Plan (referred to herein as the “AEP Insurance Plan” and, collectively with the AEP Retirement Plans, the “AEP Plans”), and the Shane Family Funeral Services Inc., d/b/a Mills and Coffee Funeral Home (“Shane Funeral”), all of whom are hereafter collectively referred to as the “Parties.”

3. This action arises from the March 6, 2009 death of Jacky Ray Dellinger. Prior to his death, Jacky Ray Dellinger was a participant in the AEP Plans referenced herein, and was married to Rita Jean Dellinger. Mr. Dellinger was the father of Eric Dellinger and Renae Pilipowskyj, and was the step-father of TCH and MMH, minor children (the “Minor Children”), who reside with their mother, Rita Dellinger.

4. This Interpleader action was brought to reach a determination of the rights and obligations of the Parties with respect to benefits under the AEP Plans, which Plans provide certain benefits to employees of AEP and its subsidiaries. Following his death, uncertainty arose as to who was entitled to those benefits, including Rita Dellinger, the Minor Children, Eric Dellinger, Renae Pilipowskyj, and Shane Funeral (the “Claimants”). Due to the uncertainty,

¹ Metropolitan Life Insurance Company was incorrectly named in the Litigation as Metropolitan Property and Casualty Company.

AEP and MetLife could not determine who would be entitled to benefits under the AEP Plans, and due to the existence of potential multiple and conflicting claims, this Interpleader action and litigation ensued.

5. Based upon the proceedings to date and the agreement of all Parties, this Court finds and orders that benefits under the AEP Plans payable as a result of the death of Jacky Ray Dellinger are as follows:

- A. AEP is hereby ordered to cause the payment of the entire amount of the AEP Retirement Plan benefits at issue, including those from the AEP System Retirement Plan (approximately \$438,611.87 as of 1/1/2011) and those from the AEP System Retirement Savings Plan (approximately \$27,493.58 as of 1/1/2011 after payment of outstanding loan), as follows:
 1. AEP is ordered to cause the AEP Retirement Plans to pay the funds to Rita Dellinger and her attorneys Dennis & Branam.
- B. MetLife is hereby ordered to pay the amount of \$900,000.00 from the AEP Insurance Plan, as follows:
 1. MetLife is ordered to pay the sum of \$250,000 to Renae Pilipowskyj and her attorneys Reasor and Inge Law Office, PLLC.
 2. MetLife is ordered to pay the sum of \$250,000 to Eric Dellinger and his attorneys Reasor and Inge Law Office, PLLC.
 3. MetLife is ordered to pay the sum of \$120,000 to First United Bank & Trust, Durant, Oklahoma, c/o Rachel C. Boone, Trust Officer, as custodian for TCH, in accordance with the Oklahoma Uniform Transfers to Minors Act, 58 Okla. Stat. §§ 1201, *et seq.*, including a written instrument in substantially the form set forth in Exhibit A hereto, with the custodian to transfer any remaining balance of the account upon TCH's 21st birthday;
 4. MetLife is ordered to pay the sum of \$120,000 to First United Bank & Trust, Durant, Oklahoma, c/o Rachel C. Boone, Trust Officer, as custodian for MMH, in accordance with the Oklahoma Uniform Transfers to Minors Act, 58 Okla. Stat. §§ 1201, *et seq.*, including a written instrument in substantially the form set forth in Exhibit B hereto, with the custodian to transfer any remaining balance of the account upon MMH's 21st birthday;
 5. MetLife is ordered to pay the sum of \$160,000 to Dennis & Branam, counsel for the Minor Children.

C. MetLife is hereby ordered to pay benefits from the AEP Insurance Plan in the amount of \$265,000 to Rita Dellinger and her counsel Dennis & Branam.

D. Rita Dellinger is hereby ordered to pay from the \$265,000 in benefits from the AEP Insurance Plan paid to her and her counsel by MetLife, as follows:

1. Rita Dellinger is ordered to pay the sum of \$18,988.73 to AEP for costs and attorney fees incurred in this action;
2. Rita Dellinger is ordered to pay the sum of \$14,787.96 to MetLife for costs and attorney fees incurred in this action;
3. Rita Dellinger is ordered to pay the sum of \$4,901.75 to Shane Funeral in connection with the funeral service of Jacky Ray Dellinger. Further, Rita Dellinger is to be given credit for payments already made, and nothing in this Order prohibits Rita Dellinger from filing claims for reimbursement in the probate case, *In Re the Estate of Jacky Ray Dellinger, deceased*, Case No. PB-2009-14, District Court of Pushmataha County, State of Oklahoma;
4. Rita Dellinger is ordered to pay the sum of \$55,110.63 to the Estate of Jacky Ray Dellinger pursuant to the terms of a promissory note and mortgage dated December 11, 2009, said mortgage recorded in Book 513, pages 836-837, in the records of the County Clerk of Pushmataha County, Oklahoma, to repay the Estate for a personal obligation of Rita Dellinger owed to Security First National Bank, Hugo, Oklahoma.

6. Upon the payments referenced in paragraph 5 (A), (B) and (C) above, AEP, MetLife, the AEP Retirement Plan, the AEP Retirement Savings Plan, and the AEP Insurance Plan are released and discharged from all liability for any further claims against them by the Claimants relating to the proceeds or funds at issue herein, relating to the AEP Plans, and this action.

IT IS SO ORDERED this 1st day of March, 2011.


James H. Payne
United States District Judge
Eastern District of Oklahoma

AGREED AS TO FORM AND CONTENTS:

/s/Jon E. Brightmire

(signed by filing attorney with permission of plaintiffs' attorney)

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/s/Robert S. Settles

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Attorney for the Estate of Jackie Ray Dellinger

/s/James T. Branam

(signed by filing attorney with permission of defendants' attorney)

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Attorney for Defendants Rita Dellinger, individually, and the Minor Children

/s/Renée DeMoss

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Attorney for Third Party Defendant Metropolitan Life Insurance Company

/s/Terry Burch

(signed by filing attorney with permission of Defendant Representative and Manager)

Shain Family Funeral Services, Inc.
d/b/a Mills & Coffey Funeral Home

TRANSFER UNDER THE OKLAHOMA UNIFORM TRANSFERS TO MINORS ACT

Metropolitan Life Insurance Company hereby transfers the sum of One Hundred Twenty Thousand and no/100 Dollars (\$120,000.00), to First United Bank & Trust, P. O. Box 999, Durant, Oklahoma, 74702, an Oklahoma banking corporation, c/o Rachel E. Boone, Trust Officer, as custodian for TCH, DOB: **Redacted**, SSN: **Redacted**, pursuant to the Oklahoma Uniform Transfers to Minors Act, 58 Okla. Stat §§ 1201, *et seq.* The custodian shall transfer any remaining balance of this money to TCH on **Redacted**, when he reaches the age of twenty-one (21) years.

Dated: _____

Metropolitan Life Insurance Company

Rachel E. Boone, Trust Officer for First United Bank & Trust, Durant, Oklahoma hereby acknowledges receipt of the property described above as custodian for the minor named above under the Oklahoma Uniform Transfers to Minors Act.

Dated: _____

First United Bank & Trust, Durant Oklahoma
Rachel E. Boone, Trust Officer

EXHIBIT A

TRANSFER UNDER THE OKLAHOMA UNIFORM TRANSFERS TO MINORS ACT

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Dated: _____

Metropolitan Life Insurance Company

Rachel E. Boone, Trust Officer for First United Bank & Trust, Durant, Oklahoma hereby acknowledges receipt of the property described above as custodian for the minor named above under the Oklahoma Uniform Transfers to Minors Act.

Dated: _____

First United Bank & Trust, Durant Oklahoma
Rachel E. Boone, Trust Officer

EXHIBIT B